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Attorneys For Plaintiff and Counterclaim Defendant
Charles Revson Inc.

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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CHARLES REVSON INC.,	:	ECF Case
	:	
Plaintiff,	:	Civil Action No. 07-CV-3888 (LAP
	:	
vs.	:	
	:	
ELEMIS LIMITED,	:	
	:	
Defendant,	:	
	:	
-----		X
ELEMIS LIMITED,	:	
	:	
Counterclaim-Plaintiff,	:	
	:	
vs.	:	
	:	
CHARLES REVSON INC.,	:	
	:	
Counterclaim-Defendant.	:	
	:	
-----		X

REPLY TO COUNTERCLAIM

Plaintiff and Counterclaim Defendant Charles Revson, Inc. (“Revson” or “Plaintiff”), by its undersigned attorneys, replies to the counterclaim in the Answer and Counterclaim (the “Counterclaim”) filed by Defendant and Counterclaim Plaintiff Elemis Limited (“Elemis” or

“Defendant”) as follows. Revson hereby replies so that the paragraph numbers of its Reply correspond with the paragraph numbers in Defendant’s Answer and Counterclaim, and in doing so denies the allegations of the Answer and Counterclaims except as specifically stated:

1. Revson admits that Elemis seeks an order by this Court under Section 37 of the United States Trademark Act (the “Lanham Act”), 15 U.S.C. § 1119, that Revson’s U.S. Trademark Registration Number 2,128,930 for the mark PROCOLLAGEN be cancelled and that the PROCOLLAGEN Principal Register contains the text “For: make-up and skin care products, namely, moisturizers in the form of lotions and creams” but otherwise denies the remaining allegations in paragraph 1 of the Counterclaim.

2. Revson admits that this Court has subject matter jurisdiction pursuant to 15 U.S.C. § 1121, 28 U.S.C. §§ 1331, 1338, 1367 and principles of pendent jurisdiction.

3. Revson admits that venue is proper in this Court under 28 U.S.C. § 1391(b).

4. For purposes of this litigation, Revson admits that it has consented to venue in this Court and to this Court’s exercise of personal jurisdiction over it.

5. Upon information and belief, and according to Elemis’s Answer and Counterclaim, Revson admits that Elemis is a company organized and existing under the laws of England and Wales.

6. Revson admits that it is a corporation organized and existing under the laws of the State of New York and that its principal place of business is within this Judicial District.

7. Revson admits that it owns U.S. Trademark Registration Number 2,128,930 for the mark PROCOLLAGEN and that the PROCOLLAGEN Principal Register contains the text “make-up and skin care products, namely, moisturizers in the form of lotions and creams”, but otherwise denies the remaining allegations in paragraph 7 of the Counterclaim.

8. Revson admits that the Counterclaim states Exhibit A to consist of a photocopy of three pages from *Stedman's Medical Dictionary* and that the definition of "procollagen" shown in Exhibit A contains, but is not limited to, the text "[s]oluble precursor of collagen formed by fibroblasts and other cells in the process of collagen syntheses;" but otherwise denies the remaining allegations in paragraph 8 of the Counterclaim.

9. Revson admits that Exhibit B to the Counterclaim contains the text "Definition: Procollagen is the precursor of Collagen (q.v.)", "Skin-Conditioning Agent", "Body and Hand Preparations (Excluding Shaving Preparations)", and "Foundations" but otherwise denies the remaining allegations in paragraph 9 of the Counterclaim.

10. Revson denies the allegations in paragraph 10 of the Counterclaim.

11. Revson admits that the left-hand side picture shown in paragraph 11 of the Counterclaim is an example of Revson's CHR ProCollagen Eyes ULTIMA II product packaging, and that the picture on the right-hand side lists "procollagen" as an ingredient. Because Revson is unable to determine from the pictures whether the right-hand side picture is of the CHR ProCollagen Eyes ULTIMA II product packaging shown in the left-hand side picture, Revson is unable to admit or deny any further allegation in paragraph 11 of the Counterclaim and therefore denies the remaining allegations in paragraph 11 of the Counterclaim.

12. Revson denies the allegations in paragraph 12 of the Counterclaim.

13. Revson denies the allegations in paragraph 13 of the Counterclaim.

14. Revson denies that it claims exclusive rights in the "term" procollagen, but admits that it claims exclusive rights in the mark PROCOLLAGEN and that it seeks to preclude Elemis from using the designation "PRO-COLLAGEN" on and in connection with Elemis's products. Revson denies the remaining allegations in paragraph 14 of the Counterclaim.

15. Revson admits that Elemis requests this Court to direct the Director of the United States Patent and Trademark Office to cancel Revson's United States Trademark Registration No. 2,128,930, but otherwise denies that Elemis is entitled to the relief requested.

PRAYER FOR RELIEF

Revson denies that Elemis is entitled to either the relief requested or any other further relief.

AFFIRMATIVE DEFENSES

Revson asserts the following affirmative defenses against the claim made by Elemis in its Counterclaim:

FIRST AFFIRMATIVE DEFENSE

The Counterclaim fails to state a claim upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

Elemis has infringed, contributed to and/or actively induced infringement of Revson's U.S. Trademark Registration No. 2,128,930 for PROCOLLAGEN.

DEMAND FOR JURY TRIAL

Pursuant to Federal Rule of Civil Procedure 38(b) Revson hereby demands trial by jury as to all claims in this litigation.

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Dated: New York, New York
October 4, 2007

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ELEMIS LIMITED,	:	
	:	
Defendant,	:	
	:	
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CERTIFICATE OF SERVICE

ELEMIS LIMITED,	:
	:
Counterclaim-Plaintiff,	:
	:
vs.	:
	:
CHARLES REVSON INC.,	:
	:
Counterclaim-Defendant.	:
	:

CERTIFICATE OF SERVICE

I hereby certify that on this October 4, 2007, a true and correct copy of Plaintiff and Counterclaim Defendant Charles Revson's Reply to Counterclaim was caused to be served upon

the attorneys listed below for the Defendant, Elemis Limited by electronic filing with the United States District Court for Southern District of New York.

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